112TH CONGRESS
2d Session

COMMITTEE PRINT

S. PRT.
112–34

IRAQ REPORT: POLITICAL FRAGMENTATION AND CORRUPTION STYMIE ECONOMIC GROWTH AND POLITICAL PROGRESS

A MINORITY STAFF TRIP REPORT

TO THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

SECOND SESSION

APRIL 30, 2012

Printed for the use of the Committee on Foreign Relations

Available via World Wide Web: http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PRINTING OFFICE

74–162 PDF WASHINGTON : 2012

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

COMMITTEE ON FOREIGN RELATIONS

JOHN F. KERRY, Massachusetts, *Chairman*

BARBARA BOXER, California	RICHARD G. LUGAR, Indiana
ROBERT MENENDEZ, New Jersey	BOB CORKER, Tennessee
BENJAMIN L. CARDIN, Maryland	JAMES E. RISCH, Idaho
ROBERT P. CASEY, JR., Pennsylvania	MARCO RUBIO, Florida
JIM WEBB, Virginia	JAMES M. INHOFE, Oklahoma
JEANNE SHAHEEN, New Hampshire	JIM DEMINT, South Carolina
CHRISTOPHER A. COONS, Delaware	JOHNNY ISAKSON, Georgia
RICHARD J. DURBIN, Illinois	JOHN BARRASSO, Wyoming
TOM UDALL, New Mexico	MIKE LEE, Utah

WILLIAM C. DANVERS, *Staff Director*
KENNETH A. MYERS, JR., *Republican Staff Director*

CONTENTS

LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washingston, DC, April 30, 2012.

DEAR COLLEAGUES: The departure of the U.S military from Iraq at the end of 2011 further reduced Iraq's profile for the media and the public, but the U.S. Mission in Iraq, comprising Embassy Baghdad, two consulates, and 11 other training sites, is the largest in the world. It employs almost 2,000 U.S. Government personnel and 16,000 contractors. The State Department's Iraq mission in 2011 cost the taxpayer about $6.5 billion.

Iraq itself is far from the stable, reliable ally the administration had envisioned and American influence, according to some, is waning swiftly. Iraqi Prime Minister Nouri al-Maliki projected an air of normalcy claiming at a December 2011, U.S. Chamber of Commerce luncheon, declaring that Iraq is "open for business." Several articles written in major magazines over the last several months dispute this claim. The Atlantic published two such articles, entitled "Doing Business in Iraq" and "Freedom is Bad for Business," both by Megan McArdle. Another entitled "Under Worse Management" appeared more recently in BusinessWeek. The chronic joblessness and poverty seen in Iraq are problems that only a vibrant private sector can overcome, and a business friendly Iraq would be a substantial improvement.

Prime Minister Maliki is also accused of being a pawn of Iran, a charge U.S. Ambassador to Iraq James Jeffrey disputes. He sees Mr. Maliki as a master politician, a man who has friends in Tehran, but also one who wants a relationship with the U.S. and other Western powers. Such relationships provide Prime Minister Maliki with an alternative to Iranian influence, the Ambassador argues, and empower him to say no to his Iranian friends, particularly when it is not in Iraq's best interests.

To assess Iraq's openness to business, the status of American influence, and the operational makeup and effectiveness of the U.S. mission, I requested Senior Professional Staff Member Patrick Garvey make another trip to Iraq. This was his sixth trip to Iraq on behalf of the committee. His first "visit" to Iraq was on behalf of the U.S. Navy in 2003, when he was recalled to active duty service from our staff.

The following report is derived from a December 2011 STAFFDEL to Iraq and subsequent research and analysis. I hope you find the report and its recommendations useful as the Senate works to assess the administration's strategy and U.S. involvement in Iraq.

Sincerely,

Richard G. Lugar,
Ranking Minority Member.

IRAQ REPORT: POLITICAL FRAGMENTATION AND CORRUPTION STYMIE ECONOMIC GROWTH AND POLITICAL PROGRESS

At the direction of Senator Richard G. Lugar, Ranking Republican Member of the Senate Foreign Relations Committee, SFRC Minority staff has over the past 3 months conducted an inquiry into the progress of U.S. efforts in Iraq with particular attention to Iraq's economic vitality, commercial prospects, and energy development. The proceeding report is derived from a December 2011 STAFFDEL to Iraq and subsequent research and analysis. At the heart of the inquiry is the assertion, which has been repeatedly propounded by the Government of Iraq and its Prime Minister, that Iraq is open for business. Several articles have appeared in major newsmagazines over the last several months disputing this claim. The Atlantic published two such articles, entitled "Doing Business in Iraq" and "Freedom is Bad for Business," both by Megan McArdle. Another entitled "Under Worse Management" appeared more recently in BusinessWeek.

The December 2011 STAFFDEL coincided with the last weeks of the nearly 9-year long mission of United States Forces, Iraq (USF–I). Over these 9 years, the United States military has been the main guarantor of security and stability in Iraq, while also serving as the dominant political force in the country. The military's withdrawal uncorked a new wave of political wrangling and violence, and it has also left the U.S. Department of State in charge of a ground structure that more resembles a military metroplex than an embassy campus. Ambassador Jim Jeffrey, himself once an Army officer, understands that the operation is unsustainable and is looking for ways to shrink the footprint and the budget, which will have an annual cost of about $6.5 billion.

Staff sought to answer the following questions:

1. Is Iraq really open for business? Does it matter?
2. What does the military's departure mean to Iraq and U.S. interests?
3. How can State downsize the operational size and or cost of its mission without sacrificing U.S. national security objectives?

INTRODUCTION

Iraq held a national election in March 2010. While Nouri al-Maliki was able to form a government 9 months later, the cabinet's security ministry posts have never been filled and there has been neither a political "grand bargain" between competing sectarian interests nor evidence that such an agreement is on the horizon. Such an agreement is necessary to make up for the lack of institutional underpinnings, checks and balances, or traditions of democracy. Without a power-sharing grand bargain that provides partners in the governing coalition some autonomy within their own ministries, gives some legitimacy to the opposition, and guarantees governorates and provinces rights, Iraq will remain dysfunctional. Maliki will continue to be accused of running roughshod over the rights of the people, at best, or at worst, of being another dictator.

A grand bargain might not be necessary if the constitution were not full of gaping loopholes or if the Parliament would enact the 54 pieces of legislation that the document requires: only about 15 or 20 of which have been completed.[1] One of those requirements is for the creation of a second parliamentary body, referred to in the constitution as the Council of Union or Federation Council (Majlis al-Ittihad). It strains the imagination to believe that any Parliament would cede power by creating a competing legislative body, so Iraq may remain a unicameral legislature. On the whole, without the legislation it requires or a constitutional review and amendment effort that seemed to show promise in 2007, the constitution remains what one analyst called "an empty suit."

The Erbil Agreements, a collection of power-sharing agreements reached in November 2010 that paved the way for government formation, contain the elements of such a political bargain, but they have been cast aside for a variety of reasons. The documents are not public. They are probably not even legal or constitutional. Instead, individual aspirations, age-old vendettas, longstanding feuds, party politics, and legal uncertainties continue to prevail in Iraq.

Beyond legal uncertainties, distrust and finger-pointing are rampant. Minority Sunnis complain that Maliki is Shia Iran's puppet, that he and his Iranian masters want absolute power in Iraq, and that all Sunnis are to be rendered powerless (with the Kurds next). The competing narrative heard in Shia circles argues that the Sunnis want to take back control and return a dictator to power who will once again marginalize the Shia.

The lack of a grand bargain is borne out in the political fragmentation and corruption that block both economic growth and political progress. Its absence is seen in even starker tones now that the U.S. military has departed. The civil war that was feared imminent in 2006 and 2007 is once again being talked about. The alliance that elected Maliki Prime Minister has weakened. There are rumors that the Islamist movement led by Muqtada al-Sadr may have a credible candidate for Prime Minister should the votes be assembled for a vote of no-confidence. Iraqiya, the bloc led by the 2010 popular vote winner, Ayad Allawi, however, has not grown stronger. Its membership could not hold together on a recent boycott, and Allawi has not demonstrated skilled leadership.

Some individuals interviewed by staff suggest that the December, 2011, indictment of Sunni Vice President Tariq al-Hashemi, could stimulate a Grand Bargain by forcing the political parties to take sides and break apart Maliki's coalition in Parliament with a no-confidence vote. Whether true or not, the type of charges against Hashemi (that he directed death squads to carry out political assassinations) could be lodged against anyone in the governing coalition. According to Hashemi's advisors, the action came after the

Vice President changed his position on the province of Anbar filing to become a "region," but his advisors say the legal action is more personal than anything. Status as a region would be advantageous for Anbar because under the constitution, regions are granted greater economic autonomy, while provinces must seek approval from Baghdad for certain initiatives and investments.

One close observer suggested that the threat of external pressures (Syria, Iran, etc.) leading to renewed sectarian violence in Iraq could also provide impetus for a broad-based push for reconciliation. That may mean someone other than al-Maliki has to be at the helm, since he may not be capable of re-earning Sunnis' trust. This is likely to cause great consternation among U.S. policymakers and the Embassy, but the change from dictatorship to democracy is often turbulent, and rarely follows a linear path. A Spanish diplomat who met with staff in Jordan offered his country's post-Franco period as an overlooked historical example. While that conversation centered on the transition in Egypt, there are similarities with Iraq as well.

Without a grand bargain, and without the safety net provided by the U.S. military, the best hope for Iraq and its citizens may actually be that the economy does not develop too quickly. In even the best case, significant oil production growth is more than 5 years off and the government of Iraq will need outside assistance to develop the sector's full capacity. Slow growth will force the government into making careful choices in its budget that could lead to a more open economy and a more efficient public sector. The government cannot afford generous handouts to placate the citizenry. For example, the Iraqis are trying to figure out how to wean the country off of the legacy monthly food-ration for which all Iraqis are eligible and which costs more than $7 billion annually. Furthermore, in terms of Iraq's broader (non-oil) economic development, it is an underdeveloped resource-rich economy. International companies are uniquely positioned to drive change and bring transparency into the economic lifeblood of Iraq. But many international firms will be skeptical of involving themselves in an Iraq venture as long as the Iraqi narrative is one of uncertainty, corruption, danger, and legal ambiguity.

Given that Iraq's fate will be decided in large part by the economic growth trajectory it realizes, the top priority for the U.S. Embassy should, in the wake of the military's departure, shift to helping American companies do business in Iraq. Although staff found this to be the case to some extent, a great deal of work needs to be done by both the Embassy and the companies themselves. The Government of Iraq has an even more important role to play in this regard. While PM Maliki and other government officials declare that Iraq is open for business, staff found the reality to be quite different. Outside the oil sector, one finds a business community comprised of the lucky, the shady, the very adventurous, and companies who have FMF or FMS deals.

Iraq has many improvements to boast, but it might be another 10 years before it is a thriving economy or functioning democracy capable of acting as a stable and reliable ally. The time has passed when the United States could seek to alter Iraq's political realities through military means or propound text for legislation. The administration must provide greater leadership and a strategic vision that keeps this in mind and can adjust to realities. It should expand exchanges under the oft-mentioned Strategic Framework Agreement (SFA) that was signed alongside the now expired Status of Forces Agreement. Vice President Biden highlighted the SFA in his early December visit: "The relationship will be guided by our strategic framework agreement which outlines partnerships across a range of strategic issues, including energy, trade, the rule of law, diplomacy, agriculture, education and many others." The administration must continue to assign its most skilled and experienced Arabist diplomats to ensure Iraq's complex problems are considered in the broadest possible regional terms.

Among Iraqis, there is a great deal of apprehension about what will happen next. On one hand the troops have been out of the cities and the Iraqis have been providing their own basic security since 2009. Overall violence is down markedly. Yet there is a growing fear that as Iran becomes further isolated, it will use the relationships and terrorist groups (most prominently Asaib al-Haq (AAH)) it has cultivated in Iraq to drive a wedge deeper into the Sunni-Shia relationship, to embarrass Iraq in the eyes of its nascent western allies, and to scare off foreign investors. Iran's proxies could also attack U.S. activities and further reduce their effectiveness. For example, movement for the STAFFDEL was constrained by a "credible kidnapping threat" coming from the "friends" of Lebanese Hezbollah member, Ali Musa Daqduq, the last prisoner held by the U.S. who was released in late December.

The most apprehensive Iraqis include those who have worked for the United States, the hundreds of thousands of refugees in the region, and the internally displaced. These Iraqis were scared before but feel more vulnerable now. Since the spring of 2011, there has been a drastic decrease in refugee and SIV (special immigrant visa) admissions to the United States. New "interagency check" processes put into place by the administration have led to a worldwide drop in refugee admissions from a rate of 73–74,000 per year to a total of 56,424 (9,388 Iraqis) for the current fiscal year. The check system is cumbersome, lengthy, and very costly.

According to the refugee coordinator in Embassy Baghdad, the refugee program has a 2-year wait before an initial interview can even be conducted. There is currently a 6-month (almost 13,000 case) backlog awaiting a Security Advisory Opinion.[2] Even worse, most who have applied and been interviewed think they may get approved and thus afforded the opportunity to start their lives over the United States. Despite this common perception, staff learned that while the overall rejection rate of the security check may only be 25 percent, 99 percent of those cases have not received a rejection letter. In other words, applicants that the system has rejected are not being told they will not be admitted to the United States. In Jordan, staff met with several such families who were in various states of limbo and desperation awaiting the outcome of these processes.

In terms of Iraqi politics, staff heard predictable Sunni resentment toward Maliki, who they feel has shown a heavy hand in dealing with internal security threats but has no political backbone when it comes to facing down Iranian malfeasance or even dissent among his own parliamentary bloc. Staff also heard substantial apprehension on the part of the Kurds, who worried that they will be again alone to face a Baghdad strongman (whom the United States is arming and training). Tensions along the disputed internal boundaries and around Kirkuk continue. This state of affairs was made fully apparent when the U.S. turnover of Hurriyah airbase near Kirkuk to Iraqi control nearly led to armed conflict in November.

The U.S. military withdrawal gives the Americans little ability to protect Maliki against a coup attempt or to continue counterterrorism operations in our own interests. However, as insurance against more involved plots against the Iraqi Government, we retain significant military assets in the Arabian Gulf, which include the U.S. Fifth Fleet and a 1.5 carrier presence,[3] a heavy brigade and some 13,500 troops in Kuwait, and significant air forces in Qatar. This presence will continue for the foreseeable future.

American diplomats judge that Prime Minister Maliki is under competing political pressures yet is a master navigator of political winds. They feel he is competent in holding his own and backing down the Iranians when necessary, and he does this particularly by building and maintaining a visible strategic relationship with the United States and the West. When asked about Maliki's continued support for the Assad regime in Syria, for example, Ambassador Jeffrey did not condemn the Prime Minister, nor see any great gain in Maliki's calling for an end to Assad. It would make no difference to Assad's longevity and would only hurt what Maliki views is an essential relationship with Iran. Plus, Maliki spent much of his exile in Syria.

ECONOMIC OPPORTUNITY

On December 13, 2011, Prime Minister Maliki spoke at the U.S. Chamber of Commerce in Washington, DC. Iraq, he said, welcomes American companies, which risk losing out if they fail to get more aggressive. But Maliki failed to drive the pitch home. He made no promises on the merits about a level playing field, accountability or transparency, or reducing bureaucratic impediments. Instead he underlined that he and his Iraqi Government colleagues will be glad to help American companies. Staff heard this in Baghdad from the Chairman of the National Investment Council, Dr. Sami Al Araji, a prominent Sadrist politician, who said he could sign visas, would take care of lodging, cars, and protection for anyone who wanted to come to Iraq to "look around." Targeted, logistical assistance of this sort is of little utility without concomitant efforts by the Government of Iraq to address interrelated economic, regulatory, infrastructural, and political difficulties that continue to hinder American investment.

On the positive side, Iraq is exporting about a half million more barrels per day than a year ago, and exports are expected to increase by that quantity again next year. Positive developments have also occurred with regard to Iraq's budget. The 2012 budget was approved by the Parliament and received the IMF seal of approval. It contains many welcome provisions from the economic standpoint. Outside of these two issues, however, success is much harder to see.

Doing business in Iraq remains extremely challenging. Capital is hard to acquire. The government is slow in paying its bills. The law remains complex and at odds with itself. Public utilities and services are not up to standards. Investors are scarce and a sense prevails among them that the Iraqi Government is not friendly toward business. "Investors come to make money, not to make charity," said the Deputy Minister of Finance, who had a good grasp on Iraq's faults, but like many in government, feels powerless to do anything about it.[4] For example, ExxonMobil, made a deal in the North because they got better terms, Dr. Al Jaberi said: "Who can blame them?"

American firms who were interviewed by staff offered a collective shrug, not wanting to lay blame, but they are noticeably frustrated with the lack of progress on tenders that are never considered, nor offered. For example ITT Exelis, which has been working for many years on foreign military sales, has for 3 years been involved in a bid to provide a military communications system on a direct commercial sales basis to the Iraqis, but it "never comes to fruition despite best prices and interoperable equipment—same as delivered through FMS."[5]

Dr. Al Jaberi expressed gratitude for what the Americans had done for his country and said his government should be ashamed for how the Americans are being treated, especially in light of what, in his view, is the great gratitude the Kuwaitis continue to show the Americans. In this regard he said, you have "the U.S. begging us to [let them] stay."

If Iraq is really open for business, the government must get out of the way rather than intervene. In an open and competitive system, assistance should only be needed rarely. "Doing Business 2012," an annual World Bank report that analyzes quantitative indicators on business regulation and the protection of property rights across 183 economies and over time, ranked Iraq at No. 164, down five slots from its 2011 survey. Singapore ranks first, the U.S. fourth, while Afghanistan at No. 160 ranks ahead of Iraq. According to the report, Iraq has instituted no reforms the World Bank would recommend, but it did institute a reform that made it more difficult to do business. "In Iraq starting a business became more expensive because of an increase in the cost to obtain a name reservation certificate and in the cost for lawyers to draft articles of association," the World Bank said.[6]

With the multitude of hurdles detailed by the World Bank (and Ms. McCardle in" The Atlantic"), it is no wonder that Iraqis continue to prefer government jobs to opportunities in the private sector. This general finding was reaffirmed by the International Rescue Committee, which works on behalf of the U.S. Government in assisting internally displaced persons (IDPs) in Iraq. IRC conducted a "Livelihoods Survey" reviewing the "labour market and the relevant openings to enhance livelihood opportunities for youth who are currently living in IDP camps in Baghdad." The study, published in May 2011, conducted focus-group interviews with about 110 youths (15–24 year olds) from urban slums. About 65 percent of the males are doing some work, while only 2 percent of females are engaged in any income-generating work. Most lack the skills to create opportunities or even engage in the economy and therefore see few prospects for themselves. Further, "many youth perceive government employment as an ideal work environment due to the level of job security and provision of benefits." [7] Yet in reality they do not have the education or even physical mobility to get to a government job, so their best option is self-employment, microenterprise, or day labor work. Efforts such as these represent a slow and tedious path out of the slums, particularly in the absence of focused policies or practices by the Government of Iraq.

But the lack of jobs is not only a problem for the youth in Baghdad's squatter slums. Approximately 2.0 to 2.5 million young people in Iraq are unemployed or only work part time and want to work more. A study done for USAID in 2011 reports that unemployment among the entire population, including what they refer to as "disguised unemployment," might be as high as 38 percent. Additionally, as USAID has documented, "each year, there are 450,000 [more] young people seeking work." [8] But with Iraq's public sector more than doubling in size since 2005 and providing perhaps half of all jobs in Iraq (60 percent of all jobs in the Kurdish Region), the call for policies that facilitate private sector job creation should be loud and clear.

Staff did encounter individuals and organizations that displayed a commitment to changing Iraq's commercial legal framework for the better. Among the most pragmatic are the entire staff of the Commercial Law Development Program (CLDP), who told staff, "Iraq doesn't know how to transition to a market-based system." CLDP, a small division of the U.S. Department of Commerce, helps developing and post-conflict countries implement commercial legal reforms, and is showing them how in an understated, measured, and cost-effective fashion.[9] CLDP's current mandate is twofold: "to build capacity conducive to the modernization of Iraq's economic infrastructure" and to "create a legal environment conducive to economic diversification and private sector growth." Among CLDP's challenges in 2010 was to build capacity for the Ministry of Oil's Petroleum Contracting and Licensing Directorate (PCLD). The PCLD lacked the knowledge and skills it needed to negotiate on an equal footing with the international oil companies. CLDP designed workshops to explain the legal, economic, and financial intricacies of oil and gas and provided 3 weeks of consultations in the U.S. that culminated in a 2-day simulated negotiation with seven U.S. lawyers. In order to help overcome some of the distrust of foreign participation in the Iraqi oil market, which has hamstrung the Ministry of Oil, CLDP also created some financial models for the Ministry of Oil to use in educating members of the Council of Representatives about the type of contract being used in the bid rounds.

CLDP has achieved modest success because of its realistic, fact-based appraisal that Iraq's challenging history can be overcome neither quickly nor forcefully. There are many bureaucratic and human obstacles as well as the legal ones. But like the arcane business practices analyzed by the World Bank, these broader issues must be tackled because they slow progress and discourage honest private companies from pursuing opportunities, which is the most sustainable path to job creation.

An additional challenge to economic growth, and a drain on the federal budget, which staff discussed with Thamer Ghadban, Chairman of the Prime Minister's Advisory Council, are state-owned enterprises (SOEs). SOE employees are paid out of the budget. They receive subsidized means of production (which often include free fuel, petroleum byproducts, and electricity). Ghadban stated that subsidies and government-paid salaries are being phased out. To facilitate this phase-out, the budget is going to allow ministries to pay salaries to laid-off employees for 1 year. Ghadban said this provision will end in a year, after which there will be no more salary subsidies or free electricity for SOEs.

Ghadban's claims were mostly substantiated in analyzing the budget itself, but there were inconsistencies, and some of this may be a little bit of a shell game. For example Article 31 states that self-financed public companies should not be funded in the federal budget, but that those companies can obtain loans from the state-owned banks. Meanwhile, Article 23 has a provision that allows the Minister of Finance to settle loans given to the SOEs, implicitly supporting the SOEs. So, instead of the current practice of subsidies, the state-owned companies can get state loans, which can then be written off. As for salary phaseouts, Article 21 contains provisions for people who have been integrated from the militias, suggesting they should not be phased out, and it also states that vacated positions should be deleted and not refilled. Finally, Article 11 provides budget assistance to allow ministries to pay for one-half of the salaries for 3 years (not one as Ghadban stated) for personnel transferred to the private sector.

VISA PROCESSES FOR AMERICAN BUSINESSMEN

Any country that professes to encourage business must start by making its processes transparent, predictable, and easy to follow. That is far from the case in Iraq. One simple step toward opening Iraq for business would be to standardize its visa processes. Over the past several months, the procedure for getting a visa for Iraq has become increasingly laborious. According to one U.S. senior executive, "Before December 15, getting a visa for Iraq took 4–5 days. Now you never know."

Iraqi officials say their system is faster than that of the United States. Implying that there might be some tit-for-tat for poor treatment given to Iraqi travelers, they stated that it must be a two-way street. A personal example: unlike prior trips, where staff were given a "multiple entry" visa good for an entire year, for the December 2011 visit, staff were given a "single entry" visa valid for 3 months. Businessmen and journalists state the 3-month single-entry visa has become standard for them as well. As a result, many private companies who work for the U.S. mission have a difficult time managing leave or rotation cycles for their employees because they must reapply for visas each time they enter or leave the country.

Table 1.1 was compiled using publicly available information to compare the requirements for Americans seeking to visit foreign countries for the preliminary activities necessary to determine whether they should expand their business interests abroad. Such activities include, but are not limited to, participating in fact-finding missions, conducting site visits, and attending meetings. Iraq ranks last in this comparison, scoring 45 out of a possible 100 points. Countries who scored 100 required no visa for Americans traveling for basic business.

The United States longstanding European allies are prominent among those who have opened their borders to American private investment. Other countries with widely divergent geographical dispositions, historical relationships with the United States, and levels of economic development have welcomed American businesspeople with open arms. Included among these countries are African partners Botswana, Kenya, Tanzania, and South Africa. Botswana, in particular, maintains rules and regulations fairly similar to those of our European allies. Additionally, several of our partners in East Asia have low barriers to business travelers. While the Philippines requires Americans traveling for purposes other than tourism to obtain a visa prior to departure, processing times are short and visas themselves are comparatively inexpensive.

In South America, longstanding partners Argentina and Chile maintain well-reasoned regulations highly conducive to those carrying out exploratory processes that are a necessary precursor for investment. In spite of the fact that another friend in the region, Brazil, expressed concerns about security measures taken at American points of entry following 9/11 and implemented retaliatory policies, the country has remained open to Americans considering the expansion of their business interests there.

Iraq's own policies are far more prohibitive than not only those of the countries of all aforementioned regions but also many of its neighbors in the gulf. Iraq maintains an unpredictable regulations regarding visa processing times, costs, and legal duration; burdensome requirements on all private American citizens seeking to remain in-country longer than 10 days; inconvenient mandated exit processes; and unpredictable exit fees. In contrast, the United Arab Emirates' regulations are somewhat unpredictable and complex, but the government maintains reasonable entrance and exit policies. Bahrain and Kuwait continue to leverage their economic potential by managing regulations that are among the most welcoming to potential American investors.

Table 1.1 offers insight only on measures governing the admission of Americans traveling with the intent of finding markets for their products in Iraq. It does not touch on far more complex regulations regarding foreign direct investment. However, liberalizing such policies is a prerequisite to make the country's overall business climate more amenable to foreign investment. Iraq has a unique, complicated history with the United States that cannot be ignored, but so do many nations where Americans conduct business, often despite truly odd—but consistent—visa requirements. American businessmen interviewed are able to deal with reasonable and well-codified regulations. Their frustration stems from the lack of consistency with which they are applied and the constant uncertainty.

Ambassador Jeffrey said that without a status of forces agreement, every one of his employees must now have a visa to enter and leave Iraq. All contractors, subcontractors, NGO employees, and businessmen must get them as well. In Iraq, visa issuance falls under the purview of the Ministry of Interior. Interior is one of the three security ministry posts that have been filled for well more than a year by acting ministers. In the case of Interior, the de facto minister is Prime Minister Maliki himself. Staff learned on this trip that at MOI Maliki has been rewarding Daawa loyalists and made cuts to staff that have negatively impacted the effectiveness of the institution.

Obtaining a visa is not the only slow process. One Western journalist whom staff interviewed stated he has been attempting to get a residency permit, but it "has been pending for more than a year. It has been sitting on the desk of the Acting Minister of Interior (Adnan al-Asadi) awaiting his signature." Like many, his organization has figured out a workaround for the visa process, going through the foreign ministry, or he said, "Bribes will save you some of this hassle."

The journalist said that the HIV/AIDS test is a requirement for the visa, which is single entry and valid for 3 months. Then, he said, "upon arrival you have 10 days to register with the authorities who may or may not demand another HIV test. They put a sticker on your passport that takes a whole page. Then you need permission to leave Iraq and also maybe another HIV test. This exit authorization also earns you a sticker that takes up another page of your passport. So for a single visit to Iraq expect the visa sticker at the Embassy, the arrival sticker and the departure sticker."

TABLE 1.1 COMPARING VISA PROCESSES FOR AMERICAN BUSINESSMEN ABROAD [10]

Country	Visa for AMCIT entry?	Visa available at POE?	Business visa req'd? (duration of validity)	Cost of business visa?	Visa processing time?	Legal duration of visa-free stay?	Other requirements for entry	Exit procedures prior to reaching airport req'd?	Entrance or Exit fee apart from ticket cost?	Score [11]
Argentina	No	N/A	No	N/A	N/A	60-180 days	None	None	$140.00 entrance	95
Bahrain	Yes	Yes	Yes (14-28 days)	$20-$228	2 weeks	N/A	No HIV/AIDS test, but those found to have HIV/AIDS refused entry	None	No	97
Botswana	No	N/A	No	N/A	N/A	<90 days/yr	None	None	None	100
Brazil	Yes	No	Yes (90 days-10 years depending on work)	$140-$160	10-15 days	N/A	None	None	None	90
Chile	No	N/A	No	N/A	N/A	180 days	None	None	$140 entrance fee	95
France	No	N/A	No	N/A	N/A	90 days	None	None	None	100
Germany	No	N/A	No	N/A	N/A	90 days	None	None	None	100
Iraq	Yes	No	Travelers for business apply for standard visa (validity determined case by case)	Determined on base by case basis	Determined on case by case basis	N/A	Must obtain arrival sticker, residency stamp, and submit blood sample within ten days of arrival.	Must obtain exist stamp at a designated Residency Office prior to departure	$20-$200 (dependent on length of stay, type of visa, other factors	45
Kenya	Yes	Yes	Yes (six months)	$100.00	Two weeks	None	None	None	No	97
Kuwait	Yes	Yes	Yes (business travelers use standard entry visa)	$175.00	Visas issued at all ports of entry	N/A	None	None	$15.00 entrance	92
Philippines	Tourism only	No	Yes (3-12 months)	$30.00-$90.00 (depending on stay length)	One week	N/A	None	None	Exit fee req'd	85
Poland	No	N/A	No	N/A	N/A	90 days	None	None	None	100
South Africa	No	N/A	No	N/A	N/A	90 days	None	None	None	100
Tanzania	Yes	Only in case of emergency	Yes (one year)	Determined on case by case basis	Five business days	N/A	None	None	None	87
UAE	Yes	Personal travel only	Yes (determined on case by case basis)	Determined on case by case basis	Determined on case by case basis	N/A	None	None	None	60

HELPING U.S. FIRMS NAVIGATE IRAQ

Given that Iraq's fate will be decided in large part by the economic growth trajectory it realizes, the top priority for the U.S. Embassy should be helping American companies do business in Iraq. Staff found this to be the case to some extent, but this is a long way from being a good news story. A great deal of work lays ahead for Embassy Baghdad and the companies themselves.

Many U.S. companies are doing big business in Iraq, but they all have challenges. Large firms such as Fluor, GE, Honeywell, Navistar, Northrop-Grumman, Rapiscan, and AECOM have pursued interests in Iraq. Honeywell, for example, has been very aggressive and has two offices in country, one in Basra and another in Baghdad. They will be opening a training center this year in Basra with 13 employees. Orders for their product are rising too, reaching about $100 million in orders for all their businesses combined, and they are considering expanding to work in the Kurdish Region. Smaller U.S. firms such as Altergy, Henry F. Teichmann, Inc., and Puralytics have been approached by some Iraqi State-owned enterprises that have interest in their work. Other U.S. firms have been working for the U.S. mission in various forms, including working with the Office of Security Cooperation for Iraq (OSC–I), whereas others have developed direct commercial sales with the Iraqi Government.

Honeywell gives great credit to both DOD and State. Honeywell spent 16 months in a DOD incubator while it tried to put together a standalone operation (one of the only positive stories staff have heard about the Task Force for Business Stability Operations). In particular, they credit Embassy Baghdad and commercial officers for their success, naming Commercial Attaché Dao Le as "helpful and passionate" and willing to "go out of his way to help."

Similar compliments about the helpful nature of the Embassy team have come from the Indiana firm, Ameriqual, which was solicited to make an offer on a yet to be seen tender from the Ministry of Trade to replace the government distributed monthly ration of food commodities with a commercially run operation featuring a single prepackaged kit. This would be a huge operation and potentially lucrative commercial enterprise, but even for huge company like Ameriqual, it would require a great deal of capital to produce, ship, and distribute food kits to every Iraqi family on a monthly basis. Ameriqual jumped through a great many hoops, sending senior officials to Baghdad to meet with the Minister, providing figures and estimates, etc. There was a great deal of interest on the part of the GOI, which sent a commercial officer to Indiana to tour the production facility. But in the end, no tender was issued and no bid was considered.

The U.S. and Foreign Commercial Service (FCS) is the trade promotion arm of the U.S. Government and part of the Department of Commerce. Its main objectives are promoting U.S. exports, encouraging foreign investment into the U.S., and protecting U.S. business interests. FCS has two staff in Baghdad and another in Erbil. They have no locally engaged staff (LES) who understand the Iraqi business climate. FCS officers, like most Embassy staff, serve on 1-year assignments. U.S. Embassy Kuwait, by contrast, has one FCS officer and four LES. American companies (and American brands) are all over Kuwait.

Until 2005, five LES were assigned to work for the FCS in Iraq, after which they were left with the one LES staff in Erbil. Locally engaged staff underwent quite an ordeal in those days. Fearing for their safety, many left the country while others simply found traveling into the Embassy too dangerous and quit. (And, according to today's staff, " . . . in a couple of cases KIA.") After that, FCS eliminated the LES slots and managed the workload by hiring two bilingual/bicultural advisors under a DOD contract. That ended in the spring of 2011, and another interim solution, a 3161[12] employee, is onboard, and two Iraq cultural advisors (ICAs) were under contract with State through April, 2012. Recently, the Department of Commerce and ITA has approved the hiring of one LES in Baghdad. To his credit, the Commercial Counselor recognizes he is shorthanded and is trying to work around it. He said he will " . . . use fees we charge companies for new matchmaking and due diligence services we now offer to pay for at least one of the ICAs on contract . . . to ensure that we can offer U.S. companies the services they need in order to do business here."

The Deputy Chief of Mission for Economic Affairs, Ambassador Peter Bodde, has also created a task force to help work around this handicap, staffing it with additional economic officers and 3,161 hires. Nevertheless, staff believes the Department of Commerce must put more effort into Iraq, particularly by hiring more local staff, especially for the FCS mission.

The Strategic Framework Agreement

Although the Status of Forces Agreement (SOFA) negotiated by the Bush administration in 2008 has expired, a second agreement, called the Strategic Framework Agreement (SFA), which was negotiated and signed at the same time, provides a framework for activities to ignite Iraq's economic engine.[13] This agreement has been much talked about inside State Department and Embassy circles and mentioned in briefings to Hill staff, but it can claim few results. Nevertheless, Section V of the SFA entitled, "Economic and Energy Cooperation" should be looked at carefully and some big ideas should be generated whose goal would be to get Iraq "open for business."

One of the biggest gaps in expertise in Iraq is in project development, financing, and management. One idea discussed with staff by the Commercial Attaché, and proposed last summer by the Embassy's Economic Minister with inputs from the Foreign Commercial Service, would be modeled on the U.S.–Saudi Joint Commission on Economic Cooperation (JECOR) that ran for 26 years beginning back in the 1970s. As it did for a long time with the Saudi state, it would provide tremendous short- and long-term benefits to both Iraq and the U.S. In a subdued "below-the-radar" fashion, JECOR provided expertise the Saudis needed to develop such things as its civil service, national parks, and its emergency response services. The Saudi Ministry of Finance paid the U.S. for a wide range of training, advisory, and procurement services. JECOR had as many as 300 advisors in Saudi Arabia at its peak.

A JECOR model, authority for which is found under Section 607 of the Foreign Assistance Act of 1961, would provide one-stop shopping for economic and technical expertise that the Iraqis need from many departments of the U.S. Government. Setting this up under the Strategic Framework Agreement might eliminate controversy. It could feature, for example, the sort of procurement processes that come with the FMS program and the technical assistance attributes of USAID, but for nondefense goods and services. By having the GOI pay for it openly, or through a foreign assistance trust fund, one could shield it from various criticisms. Additionally, it would create jobs in the Iraqi private sector, bring stability benefits by ensuring that essential projects such as power stations, generators, water treatment plants, and hospitals are built on time and to international standards. Finally, a JECOR for Iraq would provide a bridge mechanism to the day when Iraq's legal and business regulatory framework are up to standards.

For the United States, a JECOR would, first and foremost, fully fund U.S. personnel and support positions, virtually eliminating any sort of unwelcome sense that may linger following the occupation. It would promote U.S. standards and technologies in Iraq—seeding the ground for long-term business relationships. It would provide incubator or toehold type advantages that defense-oriented companies participating in FMS programs enjoy in many countries. In addition it would help participating firms with still-problematic issues like receiving payments, tender transparency, and procurement processes.

OIL PRODUCTION GROWING, BUT . . .

When one speaks about the dire state of doing business in Iraq, oil remains an outlier. While oil has complicated realities, it receives great attention from the Maliki government and keen interest from international oil companies.

According to briefings received from the Embassy and the Department of State, Iraq's oil production increased by approximately 500,000 barrels per day over the course of 2011. Net production is up to approximately 2.8 million barrels per day, and net exports are about 2.2 million barrels per day. Despite improvements to export capacity, particularly the recent opening of additional moorings near the port of Basrah, production continues to lag. The reasons are detailed in oil industry dailies. The infrastructure, including pipelines, tanks, and storage capacity, limit export capacity. Iraq has for decades used poor technology and techniques for recovering oil. But the number one reason Iraq's production lags is politics. The lack of a grand bargain that would facilitate a political consensus hampers development of a consensus approach to Iraq's oil future. Politics hampers the creation of a coherent investment strategy—or even the creation of a financing mechanism—that will enable the funding of the capital to overcome the tremendous infrastructure shortcomings.

The contracts the Government of Iraq signed so far with international oil companies to develop 14 oil fields call for Iraq to reach the extremely ambitious target of 12 million barrels per day by 2017. An estimated $370 billion must be invested to get Iraq to that production target. An authority at PFC Energy interviewed by staff in early 2011 stated that this would mean Iraq would "achieve in 7 years what it took Saudi Arabia 70 years to do." The hurdles Iraq must clear to make that happen are tremendous, however, and industry experts think that Iraq will be fortunate to reach 5 million barrels per day by the end of 2016.

To reach even the 5 million per day figure, the equivalent of adding about a half-million barrels per day per year over the next 6 years, would require absolute commitment by the government. It would require that a large share of oil revenues be reinvested into oil infrastructure. It would require that security continue to improve. And it would require that oil revenue and investments be handled transparently with a minimum loss to corruption. Iraq also will have to overcome the brain drain that has occurred in the country over the last 8 years and seek an infusion of human capital—much as Saudi Arabia did—to help manage this massive effort.

Iraq's capacity for sustaining democracy will depend greatly on the outcome of its oil development efforts. If oil revenues are expanded and transparently managed for the good of the whole country, there will be less tension between factions and regions and more stability grounded in improved services and education.

The lack of security is a handicap as well, but oil companies are willing to pay for the security if the Government of Iraq will do their share. The uncertain security environment made it impossible for the STAFFDEL to visit Basrah or the southern oil fields, but staff visited the Kurdish capital of Erbil, where a great deal activity can be found. In Erbil, staff met with most of the U.S. firms who have operations in the Kurdish territories, including executives from Hillwood, HKN, Hess, and Marathon. Staff met in Washington with senior Kurdish Government officials, including the Minister of Natural Resources, Ashti Hawrami, Foreign Minister Falah Mustafa Bakir, and Dr. Fuad Hussein, Chief of Staff to the President of the Kurdistan Regional Government.

Experts see real growth capacity in the North, including capacity to export in the Ceyhan pipeline. The IKR can be exporting 700,000 bpd by 2015 (up from more than 175k today). Given that Northern Oil Company production is declining, the Kurdish area will be the dominant producer in the north. Nevertheless, because no Hydrocarbons or Oil Law has been enacted, this potential growth is jeopardized as well.

In Baghdad, while staff were unable to secure a meeting at the Ministry of Oil, staff were briefed by U.S. Embassy officials and met with Thamir Ghadban, Chairman of the Prime Minister's Advisory Council and former Minister of Oil. Senior Petroleum Expert Natik al-Bayati was also in the meeting. Iraqi Oil production will reach 3.4 million barrels per day in 2012, about 500,000 more per day than in 2011. The 100 billion USD (117 trillion ID) draft budget for 2012 includes a $15–20 billion critical infrastructure fund that will function "much like a sovereign guarantee." This is an essential point because right now the Government of Iraq must finance every single project out of the treasury and needs to establish a sovereign guarantee to qualify for assistance from OPIC or the Ex-Im Bank. One interlocutor compared Iraq's current financing process to buying a house out of your annual salary.

In the meeting, Chairman Ghadban said that the American companies, aside from ExxonMobil and Occidental, are not playing the dominant role in the oil sector that Iraqis had hoped. He said that Chevron should be encouraged to invest, and he noted that investors from France, Turkey, South Korea, and Italy are far more active in Iraq than American companies. Ghadban made no mention of Halliburton, Baker Hughes, Weatherford International, and Slumberger, all of which are handling a great deal of the oil services.

When asked about Hunt and Marathon, who operate in the North, Ghadban waived off that fact, as if the work in the Kurdish region was child's play. Without emotion, he condemned the KRG's awarding ExxonMobil exploratory blocs. He noted that under the constitution the contracts would be illegal because the KRG lacked the legal right to award such contracts independently of the central government. He noted further that three of the blocks are in areas outside the borders of the Kurdish region, although they are controlled by Kurdish forces, and it was clear that he felt that ExxonMobil would have to make a choice over which contract it would pursue.

Ghadban matter-of-factly described the controversial and elusive hydrocarbon law, suggesting there was a reasonable opportunity, under an agreement reached between Maliki and KRG Prime Minister Barham Saleh, for the Oil and Gas Committee to review and reconcile differences among the versions of the draft law and that it could come up for first reading in 2012. The draft in current favor is again the February 2007 version of the law.[14] In 2007, Iraq's political blocs all agreed to it publicly, but it did not get through the legislative process. Each side points to specific shortcomings in the law. The shortcomings have a great deal to do with the different approaches to oil development. The Kurds are following a privatization policy in managing their resources, while the central government has preferred to work under the slogan that "Iraq's oil is for all Iraqis," which is expressed in general terms in the constitution.

The two approaches are not irreconcilable. Nevertheless, it has kept, for example, Baghdad from using production sharing agreements (PSAs), which the Kurds have favored. Baghdad has favored technical services contracts (TSCs) to develop its fields. Because of their incentive structure, PSA's are generally favored in the exploration phase, where companies are entitled to part of any crude they find in return for assuming the risk of finding none. TSCs, on the other hand, pay out a set rate on each barrel of oil drawn out of the ground, in Iraq's case above a certain threshold. Payments generally are occurring "in kind."

Kurdish officials, meeting with staff in Washington, were less optimistic about the oil law's chances and suggested Baghdad was constantly throwing up obstacles. For example, they said that Baghdad's protests against Kurdish contracts for exploration rights in disputed territories were "an excuse . . . they are against all contracts." The Kurds view the hydrocarbon law as good for both investors and Iraqi citizens. Staff assess that Parliament could make progress in this regard, with the reservation that the Iraqis have not been aggressive in brokering solutions across a range of legislative issues. The Kurds were also critical of the U.S. Embassy's efforts in trying to bring about resolution of the hydrocarbon law and related issues, but staff assesses that in this regard the time has passed when the U.S. can propound a solution and have everyone sign on.

Transparency may still be the best weapon in working through the challenges with oil, contracts, and payments. Iraq's State Oil Marketing Organization appears to be publishing its production and export records online, but the contracts and agreements are not online. And, the Kurdistan Regional Government has its PSA's online but not production figures.

Corruption Continues

Corruption continues to be a problem in Iraq, stymying economic growth and adding to the pervasive distrust and political fragmentation. Transparency International's 2011 "Corruption Perceptions Index" gives Iraq a 1.8 out of 10, which places it in the bottom 10 of the 182 countries ranked and (right below Haiti) and qualifying it as "highly corrupt." This represents a modest improvement from 2009 and 2010, when Iraq scored a 1.5 and was in the bottom five of all countries rated.

Staff asked several interlocutors about corruption. There is little of note to report. Progress is fleeting and many of the same old problems persist. Nevertheless, international groups like Transparency International and the World Bank are sanguine about Iraq's potential to improve, noting Iraq's not-so-distant past. The most interesting reply staff received on this subject was from Dr. Sami, the Chairman of the Iraqi Investment board who stated with emotion, "Corruption was not known in Iraq. Sanctions created it during the 1990s when people did it to survive. In 2003, the institutions were eradicated. From 2004–2008, corruption continued, as you had people struggling for their own existence and hundreds of people dying. Stealing is better than killing." But he said, "Judge me on my efforts to fight it. We are trying to rebuild, we have a long way to go, we are optimistic." Some corruption is to be expected, but according to Embassy officials, it remains pervasive and reaches to the highest levels of the government. Couple that with what one Iraqi-American businessman said was a "Socialist, anti-Western mentality, and a fear and loathing of the private sector," and you have the recipe for a slower road to recovery than even realists have predicted.

Without stronger laws and institutions, transparency will be the Iraqi people's No. 1 weapon, increasing the importance of programs like the Extractives Industries Transparency Initiative (EITI) so that as oil production increases, the Iraqi people can note those figures and judge whether benefits are making their way to them.

Iraq was accepted as a candidate country to (EITI) on 10 February 2008.[15] On 23 December 2010, Iraq published its first EITI report to which Eddie Rich, Deputy Head and Regional Director for the EITI International Secretariat, gave high marks, even if some of the figures do not quite match up to auditing standards. This is partly because they are provided, Rich said, by 34 different companies who provide figures on a disaggregated basis. It also does not cover domestic sales, for which EITI worries there is "no accounting or explanation." The implication is that such sales could be fraught with corruption. The report, like most EITI reports, has a 2-year lag. It looks at reconciling 2009 figures, not current day agreements, contracts, and production figures. 2010, Mr. Rich said, will be a different case for Iraq because they entered into new agreements and made many payments and signing bonuses that were not put on the books.[16]

By August 9, 2012, Iraq will have undertaken a "validation exercise" or quality assurance check through its multistakeholder process. Stakeholders, including major oil companies like ExxonMobil and Shell, civil society organizations, and the government, will rate Iraq against the 20 requirements of the EITI standard. It would not be unusual for Iraq to not be found compliant. In fact, Mr. Rich stated, "most countries do not become compliant after a single report." It is not a pass-fail system.[17]

A ROSIER VIEW FROM THE IRAQI KURDISTAN REGION

Staff spent 2 days in Erbil, the capital of the Iraqi Kurdistan Region (IKR). Arriving via commercial airline from Jordan, one is immediately impressed by the glistening, new airport that opened in 2010 and receives direct flights from Cairo, Dubai, Vienna, and Istanbul in addition to Amman. Cranes are moving and new construction is everywhere. Traffic, jammed with imported new cars from all over the world, moves with purpose and in rhythm with the business day. Visitors can pick a visa up at the terminal. The energetic U.S. Consul General is a Foreign Service veteran named Alex Laskaris who speaks Kurdish and is a font of knowledge about the Kurdish region. He sees his No. 1 job as keeping Kurdistan in Iraq.

The attitude of the Kurdish Regional Government (KRG) toward business is to provide security, institute friendly policies, and get out of the way. Critics say the security forces are heavy-handed, and the government still owns a piece of everything (one Barzani brother has a share of the Coke franchise, another has Pepsi), but there is no denying Kurdistan welcomes private sector investment. It has conquered its electricity supply problem by having a company named Mass Global Energy build 1750 megawatts of electricity generation. Mass Global then sells the power to the government to distribute to customers. Ford, GM, Chevrolet, Caterpillar, John Deere and many others have opened up distributors. GM reported that its fastest growing market in 2010 was Iraq due to increased political stability in the country, and it all began in the IKR, which licensed the first GM dealership in Iraq in 2010. GM's sales in 2010 rose 52 percent from the previous year and expanded another 68 percent in 2011. It sold 32,000 vehicles in Iraq, second to Saudi Arabia in the region.

Staff met with several American entrepreneurs who have made the Kurdistan Region their home and are enthusiastic about business prospects and are realistic about tax policies and corruption. Their only serious complaints were about the lack of consular services available at the U.S. consulate. One businessman recently had a child and he and his wife have to make the dangerous trip to Baghdad to get the child a passport.

According to international oil executives, their top challenges will be exporting product and getting paid. Payments are supposed to go from New York to Baghdad, and then to the KRG. New production from Kurdistan will come online in 2012.

OSC–I

The Office of Security Cooperation—Iraq team is comprised of 157 uniformed personnel and about 800 contractors and civilians who are working on almost 400 FMS cases worth $10.2 billion ($7.7 billion Iraqi share). OSC–I is led by a U.S. Army 3-star, LTG Robert Caslen, and a 2-star Navy SEAL deputy. LTG Caslen had been dual-hatted as the head of NATO Training Mission – Iraq, but that mission folded at the conclusion of 2011 because the Iraqis would not grant NATO troops immunities from Iraqi law.

OSC–I's mission is training and equipping the Iraqi Army. They have a huge, uphill battle ahead of them. The relationships they have inherited from the 9-year occupation may prove crucial to their success. They are well positioned to deliver and are laying the groundwork for the long-term "strategic relationship," while providing a means for American companies to get their foot in the door. Their mission statement says they conduct " . . . Security cooperation activities to build partner capacity in support of the developing strategic partnership with a sovereign, stable, self-reliant, and regionally integrated Iraq." It glosses over the "nonpermissive environment" and "regional instability" printed boldly on the briefing slides.

OSC–I's plans are aggressive, designed to build "enduring capacity" for the Iraqis. It is investing large dollars in the mission despite the political fragmentation, corruption, and lack of ministers atop the security ministries. Many of the major weapons systems will build the Iraqi Air Force and air-mobility capacities with American-made equipment including C–130 transports, F–16 fighters, trainers, and various helicopter models. The Army will be outfitted with M1A1 tanks, troop carriers, and howitzers. There are plans for ground-based air defense systems, and for the Navy, offshore support vehicles, UAV's, and patrol boats.

Some of the plans seem off-base, such as pushing to sell 18 more F–16s at a time when there is only one pilot in training, no officers enrolled at U.S. academies, and as noted above, a visa program at a near standstill. But OSC–I is committed.

Cost of the Mission May Be Its Death Knell

The State Department is running the Embassy in Baghdad, consulates in Basra and Erbil, the equivalent of a small combat hospital, several health clinics, an airline, airfields and all of the logistical elements involved. There are some dozen sites around the country. The price tag for operating all of this (including development and assistance programs) will be around $6.5 billion for 2012, well above that cost of any other U.S. diplomatic mission—but far lower than the more than $40 billion in U.S. spending budgeted for fiscal 2011 in Iraq.

The civilian mission numbers about 1,800 USG employees, backed by about 14,000 contractors of various stripes (care, feeding, maintenance, security, NGOs, and USAID implementing partners). The bulk of the $6.5 billion is tied up in operations and security. Overhead accounts for upward of 80 percent of costs according to the Special Inspector for Iraqi Reconstruction (SIGIR). Such costs are unsustainable.

The high cost comes under greater scrutiny when effects are measured. Because of pushback from the GOI, and the challenging security conditions, many planned programs are not being executed. Embassy staff are frustrated by their inability to have an impact.

Ambassador Jeffrey may have been only slightly exaggerating when he told staff that trucking food in from Kuwait to provide meals for personnel costs 50 times what it would if the Embassy were making purchases on the local economy. In Baghdad, core Embassy staff are housed in fully furnished apartments—down to ironing boards, vacuums, pots, pans, plates and glassware—yet the Embassy has maintained the Army way of feeding the troops: providing, at no cost to all assigned personnel, three meals a day cafeteria style, with four or five different lines of cuisine choices. Ambassador Jeffrey inherited a huge military operation. He expressed that he had little choice but to continue operating in the same fashion, although he was fully aware of the need to shed overhead costs or programs, and he would rather shed costs.

Staff was pleased to see that Consulate General Erbil is leading in this respect already. Although it, too, provides meals free-of-charge for its staff, but via meal vouchers which are redeemed at a local establishment that is within the security perimeter. There is also a minimart that sells basic groceries. This allows many to take meals (particularly breakfast) in their own apartments. And because the security environment is more benign, staff can even stop for lunch while out in town for a meeting. CG Erbil has also begun hiring guards from the local population, something State does at posts around the world.

The ratio of contractors to diplomats draws attention. The State Department's reliance on contractors itself is reasonable. According to the Department of State, "Although not as large as that of DOD or other federal agencies, State's contracting activity grew from $1.8 billion in 2001 to $8.8 billion in 2011. Most of this growth was for programs in Iraq and Afghanistan."

The U.S. Government does not have in its deployable arsenal sufficient security personnel, janitors, cooks, drivers, landscapers, etc.; nor should it. However, the Department of State must ensure it has ample contract oversight personnel deployed to ensure that the taxpayer is getting all that is being paid for, and that the mission is not being sacrificed or slowed because of shortcomings. Audits and inspections are important, and the work of the OIG, GAO, SIGIR, DCAA, DCMA, and others are invaluable, but greater emphasis should be placed on management. For example, State has put on staff in Iraq a retired U.S. Army Medical Service Corps officer who is the COR[18] for its medical contract. The medical contract, with a ceiling of nearly $1 billion, covers a hospital and several clinics scattered across the country and provides for emergency evacuations. It is unreasonable to expect one person to adequately manage, much less provide oversight and accountability for, a $1 billion contract with facilities and personnel working all across Iraq.

State has hired an additional 103 procurement staff since 2008, but according to analysis done by the Government Accountability Office (GAO), across the board, State does not have enough dedicated COR's monitoring contracts and task orders in country. The State Department's Acting Inspector General, Howard Geisel, stated in a phone interview with staff, "The biggest single problem in these situations is the Department having enough qualified contracting officer representatives (CORs) within the missions and in the contingency regions."

Staff further note that many of the COR's have other primary tasks not related to contract management and that most contract oversight personnel are located in the DC metropolitan area, not in country. In the case of buying a truckload of tomato paste for the cafeteria, you can manage remotely, but when it comes to managing 14,000 people who are essential to mission execution, staff strongly believes more direct oversight is necessary. This might require a change from the "centrally managed" approach the State Department has found works elsewhere, but Iraq and Afghanistan are unique in many ways.

RECOMMENDATIONS

Concrete policy recommendations are difficult to come by, but some pragmatic steps could make a difference in getting Iraq open for business and help pave the way for political progress.

- The Department of Commerce should fund an increase to its Foreign Commercial Service staffing in Iraq, particularly to hire more locally engaged staff (LES). This would enable them to better navigate the oddities of the Iraq commercial sector, build corporate knowledge, and provide better advice and assistance to American companies.
- A large-scale Joint Economic Cooperation (JECOR) program, modeled on the Saudi Arabia program that existed for three decades, should be initiated with the Government of Iraq under Section V of the Strategic Framework Agreement. Under U.S. law, authority exists under Section 607 of the Foreign Assistance Act of 1961. Such a program has great potential benefits for both the United States and Iraq.
- Embassy Baghdad should open a small commissary on the premises as soon as possible. Embassy personnel expressed a willingness and desire to cook their own meals, but they cannot procure groceries on the Embassy campus, nor make trips into town. This would have an immediate impact on dining facility demand and costs, help identify challenges and opportunities, and provide a bridge to the future. Changing the dining facility to a fee-for-service from an all-you-can-eat enterprise might also be worth considering.
- Cuts must be made to Embassy staffing. The Department faces tough decisions in adjusting the size of the Embassy staff, which is larger than it needs to be to accomplish the mission. This has probably been postponed because transition was a higher priority, but cuts can and should be made now before

the next assignment and rotation period commences this summer.

- Currently numbering 10 or 11 sites, the United States Government should reduce or consolidate the number of sites from which it is operating in Iraq. Each site requires a cadre of static guards and support personnel that add exponentially to the cost of the Iraq operation.
- In and around Baghdad, no meaningful downsizing can occur if the Embassy has to continue to control the sprawling expanse of real estate for which it is currently responsible, including six separate sites in Baghdad alone. The Department must look for ways to shrink its footprint. One option would be to close FOB Union III, which exclusively houses the OSC–I mission. Those offices should transition to the buildings that were originally constructed for that purpose on the Embassy campus.
- The Secretary of State should commission an independent review of the scope and expectations for the Police Development Program, perhaps resembling the commission that Gen. Jim Jones and former DC Police Chief Charles Ramsey led in 2007 that included current Senate Sergeant-at-Arms Terrance Gainer. From a distance and considering current conditions the current program looks unsustainable. Alternatively, the PDP could become a core element under JECOR and be funded by the GOI.
- According to the contracting officials at DCMA, the LOGCAP contract provides flexibilities to procure locally and even hire local Iraqis. State, through the Defense Contract Management Agency, should push KBR, which carries the LOGCAP responsibilities, to hire and train more Iraqis. The same should be done to increase local food procurement through the contract held by DLA (the Defense Logistics Agency). Start soon. Start small.
- The Department of State should hire, train, and deploy more CORs to actively manage the large contracts and contract-hired personnel it relies upon to operate the Iraq mission. In addition to providing better in-country oversight now, as it transitions from some of the DOD/DCMA-procured contracts, the Embassy will benefit from such on-sight expertise.
- The Department of State should enable ConGen Erbil to, at a minimum, provide consular services for American Citizens living in the Kurdistan Region. Staff met with several American businessmen who are living with their families in northern Iraq. One had recently had a baby and was contemplating the requirement to travel to Baghdad to get a passport for the child.
- The Federal Aviation Administration should repeal SFAR 77, which prohibits all U.S. air carriers or commercial operators from conducting flight operations over or within the country of Iraq. Several foreign carriers are operating into Baghdad International, and even more private carriers are flying into Erbil, yet American carriers are prohibited—and that includes jets belonging to American oil and oil services companies like Shell, Hess, Hunt, ExxonMobil, Slumberger, and KBR.

- The multilayered screening procedures for Iraqi Refugees and Special Immigrant Visa (SIV) applicants are costly, cumbersome, and ultimately defeat the goals of these programs by keeping applicants in a state of limbo for extended periods of time. The administration should either terminate the SIV program or add $5 million to adequately staff to eliminate backlogs that are more than 2½ years long.
- The FY 2007 National Defense Authorization Act (NDAA) expanded the Iraqi SIV program to offer protection to more Iraqis who were risking their lives to assist/work for the United States mission in Iraq. The program was further expanded by Section 1244 of the 2008 NDAA. Previously limited to interpreters and translators who worked for the military and the Embassy, more employees became eligible. The program is due to expire next year. The program should be allowed to terminate, and seek to accommodate only those who have already applied using quotas that have already been established, but left unfilled. If a new humanitarian crisis opens, new legislation can be considered.

APPENDIX I—ISSUES TO BE REGULATED BY LAW UNDER THE IRAQ CONSTITUTION19

No.	Article	Issue
1	9(2)	Military service.
2	12(1)	Flag, national anthem and emblem.
3	12(2)	Honors, official holidays, occasions, and calendar.
4	18	Citizenship (entitlement, withdrawal, reinstatement, multiple nationalities).
5	22(2)	Relationship between employees and employers.
6	22(3)	Forming and joining trade unions.
7	23(2)	Expropriation.
8	24	Freedom of movement of manpower, goods and capital.
9	26	Encouraging investment in various sectors.
10	27(2)	Preservation, management and disposal of State property.
11	28(1)	Taxes and fees.
12	28(2)	Exemption from taxes for low income earners.
13	30(2)	Social and health security to old, sick, disabled, unemployed, homeless and orphaned.
14	31(2)	State Supervision and building of hospitals and clinics.
15	32	Care for the handicapped.
16	34(4)	Public and private education.
17	38(C)	Assembly and peaceful demonstration.
18	39(1)	Forming and joining political parties.
19	41	Personal status.
20	43(1)	Management of religious endowments.
21	45(1)	Strengthening/developing civil society institutions.
22	49(3)	Election of Council of Representatives.
23	49(5)	Replacing members of the Council of Representatives.
24	63	Rights and privileges of the Speaker, two deputy speakers, and members of the Council of Representatives.
25	65	Formation, conditions and competencies of the Federation Council.
26	69(1)	Nomination of President of the Republic.
27	69(2)	Nomination of Vice Presidents of the Republic.
28	74	Salary of the President.
29	82	Salaries of the Prime Minister and Ministers.
30	84(1)	Duties and authorities of the security institutions and National Intelligence Service.
31	86	Formation and authorities of the ministries.
32	89	Regulation of federal courts.
33	90	Establishment, authorities and rules of the Higher Juridical Council.
34	92+	Number, member of selection and work of the Federal Supreme Court.
35	93(6)	Settling accusations against the President, Prime Minister and Ministers.

APPENDIX I—ISSUES TO BE REGULATED BY LAW UNDER THE IRAQ CONSTITUTION19—Continued

No.	Article	Issue
36	96	Establishment of courts, appointment of judges and prosecutors and their terms of service and discipline.
37	97	Discipline and removal of judges.
38	99	Regulating military judiciary and jurisdiction.
39	102	Functions of the High Commission for Human Rights, the Independent Electoral Commission and the Commission on Public Integrity.
40	103(1)	Work of the Central Bank, Board of Supreme Audit, Communication and Media Commission and the Endowment Commissions.
41	104	Functions and competencies of the Foundation of Martyrs.
42	105	Establishing a commission to guarantee the rights of regions and governorates not organized into regions.
43	106	Establishing a commission to audit and appropriate federal revenues.
44	107	Establishing the Federal Public Service Council.
45	112(1)	Management of oil and gas from current fields and distribution of revenue.
46	109	Oil and gas revenue distribution and regulation.
47	114(7)	Water policy.
48	118?	Procedures to form regions.
49	122(2)	Authorities of governorates not organized into a region.
50	122(4)	Election and powers of Governorate Councils and Governors.
51	123	Regulation of power delegated to the regions.
52	124(2)	Status of Baghdad.
53	125	Administration, political, cultural and educational rights for minorities.
54	132(3)	Care and compensation for families of martyrs, political prisoners, victims of previous regime, and those injured by terrorist attacks.

End Notes

1. According to a report by the Public International Law & Policy Group (PILPG), "Next Steps for Implementing the Iraq Constitution," written in 2006, more than ⅓ of the Constitution will be "determined" or "regulated by to-be-written laws. The list of 54 specific mentions is included at Appendix I.
2. A Security Advisory Opinion (SAO) is a multiagency name check required in all cases of possible immigration inadmissibility under INA 212(a)(3)(C). US. Department of State Office of the Inspector General, Report of Inspection Embassy Baghdad Iraq, Report # ISP–I-09–30A dated July 2009 provides good overview of this security review process that it describes as "among the most severe in the world."
3. The term 1.5 carrier presence in Navy parlance means that they will have at least one carrier strike groups patrolling the area, sometimes two.
4. Interview with Dr. Jaber Al Jaberi, 12/7/2011.
5. From e-mail discussion with John Greenhalgh, Director Middle East and Africa Electronic Systems for ITT/Excelis, 6 March 2012.
6. The International Bank for Reconstruction and Development/The World Bank, "Doing Business 2012, Doing Business in a More Transparent World."
7. International Rescue Committee, "Youth and Livelihoods Assessment: Baghdad," May 2011, p. 16.
8. "Unemployment Threatens Democracy in Iraq," USAID Agricultural Policy Dialog Series #10, January 2011.
9. CLDP's Iraq program cost $8.65 million from 2006 to mid-2011.
10. Sources: U.S. Department of State Web site; Web sites of the Embassies of Argentina, Bahrain, Kuwait, the Philippines, South Africa, Tanzania; phone conversations with Embassies of Argentina, Botswana, Brazil, Chile, France, Germany, Iraq, Kenya, Kuwait, the Philippines, Poland, South Africa, Tanzania, and United Arab Emirates (Feb. 2012).
11. Perfect score is 100, five points are deducted as follows: if a visa is needed for entry, if visas are not available at points of entry (if they are, two points are added), if standard visa processing time exceeds 1 month, if additional, nonhealth related bureaucratic demands are made after entry, if exit procedures are not conducted at points of departure, and if entrance or exit fees are required. Ten points are deducted if the validity of business visas, the cost of a business visa, or the visa processing time are determined on a case-by-case basis instead on a standardized basis.
12. A 3161 employee, is a temporary direct-hire employee, so named because of the section of the law that governs this type of employee: USC Title 5 Part III Subpart B Chapter 31 Subchapter IV § 3161.
13. View the SFA online at this link: http://www.acq.osd.mil/log/PS/p__vault/SE__SFA.pdf.
14. The 2007 draft law is available on the web at this address: http://web.krg.org/uploads/documents/Draft%20Iraq%20Oil%20and%20Gas%20Law%20English__2007__03__09__h17m2s47.pdf

15. SFRC staff reported on Iraq's EITI pursuits in a 2008 report entitled "The Petroleum and Poverty Paradox: Assessing U.S. and International Community Efforts to Fight the Resource Curse."

16. Video teleconference interview between Mr. Rich and SFRC staffmember Patrick Garvey, March 2012.

17. Ibid.

18. Contracting Officer's Representative (COR) means an individual who is designated and authorized in writing by the contracting officer to perform specific technical or administrative functions on contracts or orders. The term COR includes any individual (military or civilian) performing these types of functions on contracts regardless of the term used to describe their position, specialty or assignment (e.g., alternate CORs, assistant CORs, Contracting Officers' Technical Representatives (COTRs), task order monitors, task order managers, performance assessment monitors, etc.). These individuals serve a critical and vital role in assuring contractors meet the performance requirements of the contract in terms of cost, quality, quantity, schedule and cost/price. Only contracting officers have the authority to delegate these functions and assign a COR, a COR is not authorized to further delegate any responsibility.

19. Next Steps for Implementing the Iraq Constitution, Public International Law & Policy Group (PILPG), 2006, p. 13–15.

○